

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1 - 3, 5 and 6 are amended, collectively, without prejudice or disclaimer. A new Independent Claim, i.e., Claim 9, is added. Claims 1 - 9 are now in this case.

* * * * *

Initially, the Examiner rejected Claim 1 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Creel, U.S. Patent Application Publication No. US 2005/007754 in view of Tarzian, U.S. Patent No. 2,731,749. According to the Examiner, Creel discloses an illumination device, as set forth in Claim 1, including a box-like body 2 with a front wall 4, a back wall 6, and side walls 10,12,14 extending from the back wall and having reflective inner surfaces 26. Also, the Examiner states that Creel does not have a central opening connected to the back wall by the side walls (citing FIGS. 3 and 4). Further wording of the Office Action, in this regard, is considered awkward and is not clear to Applicant. Accordingly, Applicant interprets the Examiner's position to be that Creel additionally discloses a decorative image 22 reproduced on an inner face of a back wall and a light source 16 extending at an inner side of the front wall (but not around a central opening) and in proximity to side walls purportedly having reflective inner surfaces of a width substantially greater than the minimum necessary for housing the light source. The Examiner appears to assert that this arrangement enhances a sensation of depth conveyed by the image internally on a frame delimiting the opening (the Examiner apparently referencing FIGS. 3 and 4).

The Examiner then looks to Tarzian who, she says, discloses an illumination device which comprises a box-like body 10 with a back wall 20, 32 and side walls 13, 38

extending from the back wall. She acknowledges, however, that the side walls of Tarzian lack reflective inner surfaces. Furthermore, she apparently takes the position that Tarzian teaches a front wall 18 having a central opening connected to the back wall by the side walls wherein on an inner face 20 of the back wall, a decorative image 24 is reproduced and a light source 26 extends at an inner side of the front wall around the central opening and in proximity to the side walls, the Examiner making reference to FIGS. 3 and 4. The Examiner argues, in addition, that the side walls of Tarzian have a width substantially greater than the minimum necessary for housing the light source so as to enhance a sensation of depth conveyed by the image internally on a frame delimiting the opening, further citing FIGS. 3 and 4.

The Examiner concludes that it would have been obvious to modify the teachings of Creel to include a light source larger than the width of the box, and a front wall having a central opening in or to present a three dimensional design, while concealing the light source, as purportedly shown by Tarzian.

* * * * *

Next, the Examiner rejected Claims 2 and 3 under 35 U.S.C. § 103(a) as obvious and, therefore, unpatentable over Creel in view of Tarzian, as applied to Claim 1 above, and further in view of Grassi, U.S. Patent No. 4,345,395. The Examiner seems to argue that Creel lacks a fluorescent type light source distributed along the length of the frame. Without explanation, however, she concludes that it would have been obvious to use a more natural light source to present a three dimensional depth to the picture, allegedly shown by Grassi.

* * * * *

Thereafter, the Examiner rejected Claims 4-8 under 35 U.S.C. § 103(a) as obvious over Creel in view of Tarzian and further in view of Windisch et al., U.S. Patent No. 4,128,286. The Examiner seems to assert that Creel lacks a decorative image reproduced on the back wall, which is a fraction of the size of a larger image, generated by combining a plurality of the devices in a modular configuration. She looks to Windisch et al. for purportedly disclosing a portable display for the display of graphics, reasoning that anyone in the display art would have appreciated using a multiplicity of panels to provide a single display design (the Examiner making reference to column 2, lines 23-30 of Windisch et al.). Also, she believes that because the device of Windisch et al. is portable, the same may be applied to a ceiling or wall. In other words, Windisch et al., the Examiner apparently argues, disclose a device or apparatus 16, 18, 20, 30, C capable of being embedded in a ceiling or wall connection. She comments that Applicant has not positively claimed the combination ceiling or wall and illumination display device.

* * * * *

As a preliminary matter, Applicant has amended Claim1, without prejudice or disclaimer, to better define the invention without limiting effect. In particular, the preamble of Claim 1 is amended to read - - [a] device for illuminating a selected living space - -; the phrase “wherein a decorative image is reproduced on an inner face of the back wall” has been removed and reinserted after Applicant’s positive recitation of a “light source”; and the phrase - - the device projecting light in accordance with the image into the living space so as to create a sensation of natural luminosity - - has been added for clarity, to better define the invention without limiting effect. In addition, the multiple phrases “the side walls having inner faces made of reflective material” of Claim 1 have

been deleted as redundant verbiage. Applicant's removal of commas, a stray period, insertion of semicolons as appropriate punctuation, and placement of the word "extends" to its transitive form - - extending - - to better define the invention without limiting effect, are also noted.

In Claim 2, the spelling of "length" has been corrected. Claim 3 has been reworded to read - - wherein the light source is florescent - - for improved readability and as a matter of desired style. As for Claims 5 and 6, for added clarity and to avoid confusion with Applicant's "illumination device", the second recitation of "device" in these Claims now reads - - a member - - for embedded ceiling or wall connection, and for ceiling-fitted connection, respectively. Applicant's amendments to Claims 2, 3, 5 and 6 are made, without prejudice or disclaimer, to better define the invention without limiting effect.

Furthermore, new Independent Claim 9 has been added with a support surface, e.g., of an embedded ceiling or wall connection, or a ceiling-fitted connection, to positively recite the same in accordance with the Examiner's comments.

* * * * *

Notwithstanding the foregoing amendments, Applicant respectfully disagrees with the Examiner's reading and application of the cited references to Applicant's invention.

Generally speaking, Applicant's invention relates to a lighting fixture with a box-like casing that contains a light source. The device illuminates a room, or areas adjacent to the device, by directing light onto a decorative panel located on a bottom wall of the casing and reflective sidewalls, thereby *projecting* a background image into a room or

other livable space, so as to create the sensation of natural light, in general, and mimic, using artificial light, the optical sensation of natural light coming in from the outside through an open window.

In order to create this sensation, it is considered relatively important to enhance the sense of depth of the background image created. To this end, the box-like casing uses, in combination, reflective side walls and a uniquely positioned light source, e.g., a tubular fluorescent lamp. The lamp extends around a central opening in a front wall of the casing, while being concealed by the front wall and placed at a maximum distance from the background image, whereby the image is illuminated not only directly by the light source, but also indirectly by the reflective side walls of the box-like casing. Notably, as shown, for instance, in FIGS. 1 and 2, to achieve optimal effect, the width of the reflective side walls is several times greater than the diameter of the tubular lamp.

* * * * *

Indeed, none of the cited references, whether taken alone or in any combination, disclose or suggest Applicant's invention, as claimed. First, we respectfully disagree with the Examiner's position that the fields of lighted picture frames and light "artwork" is analogous to that of lighting fixtures and other light projecting devices. Indeed, we submit, lighted picture frames are used to illuminate a specific item within a frame, i.e., a photograph or picture, and improve display of or optically enhance the item. Light "artwork" is merely a work of art that is generated using articles and lighting effects. Applicant's invention, on the other hand, is a lighting fixture that projects artificial light about a room or other livable space in a manner that mimics the flow of natural light through a window. While both Applicant's invention and the devices cited by the

Examiner produce and utilize light in some fashion, their configuration, application and commercial objectives are as entirely distinct and different. Indeed, we respectfully submit, they are as different as “apples and oranges”.

Even if the respective arts were analogous to that of Applicant’s invention, the cited references do not disclose or suggest Applicants invention. Moreover, lighted picture frames and light “artwork” simply are not intended nor could they be used to illuminate an entire room, not to mention, create the visual impression of natural light, without hindsight reconstruction and reconfiguration of their structures. Nor could a lighted picture frame or light “artwork”, according to the cited references, be embedded in a ceiling or wall, or be attached to a ceiling, in a manner that would create the lighting effect of Applicant’s invention.

Indeed, the innovative structure of Applicant’s device is important to this effect in conjunction with appropriate positioning relative to the livable space to be illuminated. And one skilled in the art of lighted picture frames would, in turn, find no motivation to look to the art of lighting fixtures, or vice versa, in order to achieve the optical effect of Applicant’s invention.

With specific reference to Tarzian, we respectfully disagree that this reference discloses or suggests a front wall with a central opening. To the contrary, Tarzian purports to disclose a convex panel 18 which does not have, define or suggest a central opening.

Withdrawal of the Examiner’s rejections under § 103(a) is, therefore, respectfully requested.

* * * * *

Applicant has undertaken to amend the Specification and the Claims, without prejudice or disclaimer, to further comport with U.S. practice and, in so doing, to better define the invention without limiting effect.

Applicant has made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention prior to allowance, the Examiner is asked to contact Applicant's counsel at (646) 265-1468.

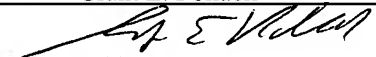
Respectfully submitted,

Dated: October 10, 2008


I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope with sufficient postage addressed to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450

on October 10, 2008

Name Grant E. Pollack



Signature



Grant E. Pollack, Esq.

Registration No. 34,097

POLLACK, P.C.

The Chrysler Building

132 East 43rd Street, Suite 760

New York, New York 10017

Telephone: (646) 265-1468

Facsimile: (646) 253-1276

E-mail: gpollack@pollackpc.com

Attorney for Applicant